

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION

Randy Simpson,	)	
	)	
Plaintiff,	)	Civil Action No. 6:05-1087-HMH-BHH
	)	
	)	<b><u>REPORT OF MAGISTRATE</u></b>
vs.	)	<b><u>JUDGE</u></b>
	)	
Greenville Transit Authority and	)	
McDonald Transit Associates, Inc.,	)	
	)	
Defendants.	)	
	)	

This matter is before the Court on Defendant Greenville Transit Authority's ("GTA" or the "defendant") motion to dismiss pursuant to Federal Rule of Civil Procedure 41(b). The plaintiff has pled claims against GTA for race discrimination, pursuant to Title VII of the Civil Rights Act of 1964, as amended, and the South Carolina Human Affairs Law, S.C. Code § 1-13-10 *et seq.*, and for violations of the United States and South Carolina constitutions. The plaintiff has also pled claims for breach of contract, wrongful termination, and violations of public policy.

Pursuant to the provisions of Title 28, United States Code, Section 636(b)(1)(A), and Local Rule 73.02(B)(2)(g), D.S.C., all pretrial matters in employment discrimination cases are referred to a United States Magistrate Judge for consideration.

The defendant appears to be exasperated with what it perceives to be a total failure by the plaintiff to prosecute, in good faith, the action he has brought in this Court. Specifically, the defendant points to the repeated inability of the plaintiff to produce complete discovery as requested by GTA and ordered by the Court. To this end, the Court is substantially familiar with the discovery issues and empathetic to GTA's apparent

frustration. Notwithstanding, the actions of the plaintiff do not rise to the level of a failure to prosecute nor do they warrant dismissal as a sanction. The Court has analyzed the circumstances of the matter in accordance with applicable law and finds insufficient basis to recommend otherwise.

**CONCLUSION**

Wherefore, it is RECOMMENDED that Defendant Greenville Transit Authority's motion to dismiss be DENIED.

IT IS SO RECOMMENDED.

s/Bruce H. Hendricks  
United States Magistrate Judge

June 2, 2006  
Greenville, South Carolina